

MILLER, LEIBY & ASSOCIATES, P.C.
ATTORNEYS AT LAW

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March 24, 2023

Via ECF

Honorable Judge Edwards R. Korman
United States District Court
Eastern District of New York
225 Cadman Plaza East,
Brooklyn, NY 11201

**RE: LOURDES MARTE and THOMAS SANTOS (Plaintiffs), v.
DOLLAR TREE STORES, INC., FAMILY DOLLAR STORES OF
NEW YORK, INC. and FAMILY DOLLAR (Defendants)
DOLLAR TREE STORES, INC., FAMILY DOLLAR
STORES OF NEW YORK, INC. and FAMILY DOLLAR
(Third-Party Plaintiffs) v. 705-711 FRANKLIN REALTY LLC and
JAMAICA AUTUMN LLC (Third-Party Defendants)
No.: 1:20-CV-00313 (E.D.N.Y. Filed June 15, 2020)**

Dear Honorable Korman:

Pursuant to the Honorable Court's Order dated March 10, 2023, please accept this correspondence and enclosed declaration on behalf of Mr. Weiss and declaration page in support of 705-711 Franklin Realty LLC's summary judgment motion.

Thank you for your consideration.

Very truly yours,

MILLER, LEIBY & ASSOCIATES, P.C.

BY: /s/ Jeffrey R. Miller
Jeffrey R. Miller, Esq.

CC: Bradley J. Levien, Esq.
MURHY SANCHEZ, PLLC
Attorney for Defendants/Third-Party Plaintiffs
**FAMILY DOLLAR STORES OF NEW YORK, INC.,
also i/s/h/a DOLLAR TREE STORES, INC., and FAMILY DOLLAR**
100 Duffy Avenue, suite 510
Hicksville, NY 11801
(516) 271-2582

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Ira M. Perlman, Esq.

LAW OFFICES OF IRA M. PERLMAN, P.C. and ROBERTO D. ROSEN, P.C.

Attorney for Plaintiffs

LOURDES MARTE and THOMAS SANTOS

60 Cutter Mill Road, Suite 206

Great Neck, NY 11021

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LOURDES MARTE and THOMAS SANTOS,

Docket No.:1:20-CV-00313

Plaintiff(s)

**DECLARATION OF
MARK WEISS**

-against-

DOLLAR TREE STORES, INC., FAMILY DOLLAR STORES
OF NEW YORK, INC., and FAMILY DOLLAR,

Defendant(s)

DOLLAR TREE STORES, INC., FAMILY DOLLAR STORES
OF NEW YORK, INC., and FAMILY DOLLAR,

Third-Party Plaintiff(s)

-against-

705-711 FRANKLIN REALTY LLC and JAMAICA AUTUMN
LLC

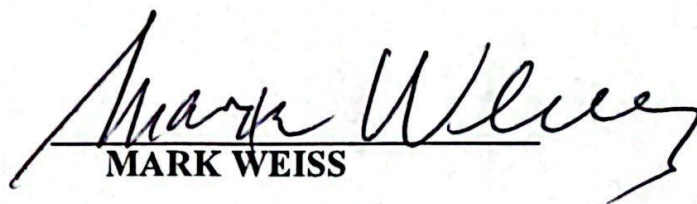
Third-Party Defendant(s)

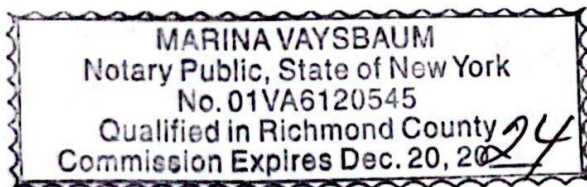
I, Mark Weiss, pursuant to 28 U.S.C. 1746 declare that the following is true and correct under the penalty of perjury:

1. I am the president of 705-711 FRANKLIN REALTY LLC.
2. I am a custodian of records for such business entity.
3. I am fully familiar with the facts and circumstances of this matter based upon my review of the applicable files maintained by my office.
4. Pursuant to the lease agreement, 705-711 FRANKLIN REALTY LLC was required to procure insurance for the property located at 888 Jamaica Avenue, Kings County, New York.
5. On July 25, 2018, the date of the plaintiff's accident, 705-711 FRANKLIN REALTY LLC's insurance coverage applicable to the above-referenced loss was a commercial general liability policy issued by KBIC Insurance Policy No. 010191453CP0100, with effective dates of August 8, 2017 – August 8, 2018, and personal injury limits of \$1,000,000 per occurrence / \$2,000,000 aggregate. A copy of the declarations page is attached hereto as **Exhibit "1"** to this affidavit.

6. I state that the above record, **Exhibit "1"**, attached hereto is a true and accurate duplicate of the original record in custody of 705-711 FRANKLIN REALTY LLC and was kept in its normal course of business.
7. I am familiar with the content and substance of the attached record as **Exhibit "1"** and said policy was in effect on the date of accident, July 25, 2018.
8. The aforementioned record was kept in the course of a regularly conducted business activity of 705-711 FRANKLIN REALTY LLC.

I declare under the penalty of perjury that the foregoing is true and accurate. Executed on this 22 of March, 2023.


MARK WEISS



24 3/22/23.



EXHIBIT 1



Policy Number
010191453CP0100

COMMON POLICY DECLARATIONS

LEADING INSURANCE SERVICES, INC.
US MANAGER FOR KOOKMIN BEST INSURANCE CO., LTD. (US BRANCH)
400 KELBY STREET 15TH FL. FORT LEE, NJ 07024

Item 1.	Named Insured and Mailing Address	Agent Name and Address
	705-711 FRANKLIN REALTY LLC PO BOX 350125 BROOKLYN, NY 11208	3101114469 - MORSTAN GENERAL AGENCY, INC PO BOX 4500 MANHASSET, NY 11030
		Agent No. 3101114469
Item 2.	Policy Period	From: August 08, 2017 To: August 08, 2018
	at 12:01 AM., Standard Time at your mailing address shown above.	
Item 3.	Business Description: Department or Discount Stores Form of Business: Limited Liability Company	
Item 4.	In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.	
	This policy consists of the following coverage parts for which a premium is indicated. Where no premium is shown, there is no coverage. This premium may be subject to adjustment.	
	Coverage Part(s)	Premium
	Commercial Property Coverage Part	\$ [REDACTED]
	Commercial General Liability Coverage Part	\$ [REDACTED]
	Commercial Crime Coverage Part	[REDACTED]
	Commercial Inland Marine Coverage Part	[REDACTED]
	Commercial Auto (Business or Truckers) Coverage Part	[REDACTED]
	Commercial Garage Coverage Part	[REDACTED]
		\$ [REDACTED]
	TAX OR SURCHARGE	\$ [REDACTED]
	Total Policy Premium	\$ [REDACTED]
Item 5.	Forms and Endorsements	
	Form(s) and Endorsement(s) made a part of this policy at time of issue:	
	See Schedule of Forms and Endorsements	

Signed:

Date: August 8, 2017 By: President

THIS COMMON POLICY DECLARATION AND THE SUPPLEMENTAL DECLARATION(S), TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART(S), COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, COMPLETE THE ABOVE NUMBERED POLICY.

CO-DEC (07/01)

Client Copy



Policy Number 010191453CP0100

**COMMERCIAL PROPERTY COVERAGE PART
SUPPLEMENTAL DECLARATIONS
KOOKMIN BEST INSURANCE CO., LTD. (US BRANCH)**

Named Insured 705-711 FRANKLIN REALTY LLC

Effective Date: August 08, 2017

12:01 A.M., Standard Time

Agent Name 3101114469 - MORSTAN GENERAL AGENCY,
INC

Agent No. 3101114469

Item 1. Business Description: Department or Discount Stores**Item 2.** Premises Described: **See Schedule of Locations****Item 3.** \$500 Deductible unless otherwise indicated.**Item 4.** Coverage Provided

Loc. No.	Bldg. No.	Coverage	Limit of Insurance	Covered Causes of Loss	Coins.
001	001	BUILDING MASONRY NON-COMBUSTIBLE - OTHER THAN REINFORCED - LIGHT STEEL	\$1,606,000	SPECIAL	80%

Other Provisions

☐ **Agreed Value:** **Expires:** ☒ **Replacement Cost**
☐ Business Income Indemnity: Monthly Limit: ☐ Period: Maximum ☐ Inflation Guard:
 Reporting Extended Days BI Media
 Extension of Recovery Period: Months
 Deductible: \$1,000 Glass Deductible: \$500 Exceptions

Loc. No.	Bldg. No.	Coverage	Limit of Insurance	Covered Causes of Loss	Coins.
001	001	BUSINESS INCOME WITH EXTRA EXPENSE MASONRY NON-COMBUSTIBLE - OTHER THAN REINFORCED - LIGHT STEEL	\$256,000	SPECIAL	80%

Other Provisions

☐ **Agreed Value:** **Expires:** ☐ **Replacement Cost**
☐ Business Income Indemnity: Monthly Limit: ☐ Period: Maximum ☐ Inflation Guard:
 Reporting Extended Days BI Media
 Extension of Recovery Period: Months
 Deductible: Glass Deductible: Exceptions

Loc. No.	Bldg. No.	Coverage	Limit of Insurance	Covered Causes of Loss	Coins.

Other Provisions

☐ **Agreed Value:** **Expires:** ☐ **Replacement Cost**
☐ Business Income Indemnity: Monthly Limit: ☐ Period: Maximum ☐ Inflation Guard:
 Reporting Extended Days BI Media
 Extension of Recovery Period: Months
 Deductible: Glass Deductible: Exceptions

Item 5. Forms and Endorsements

Form(s) and Endorsement(s) made a part of this policy at time of issue:

See Schedule of Forms and Endorsements

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

PF-DEC2 (10/00)

Client Copy



Policy Number
010191453CP0100

**COMMERCIAL PROPERTY COVERAGE PART
SUPPLEMENTAL DECLARATIONS
KOOKMIN BEST INSURANCE CO., LTD. (US BRANCH)**

Named Insured	705-711 FRANKLIN REALTY LLC	Effective Date:	August 08, 2017 12:01 A.M., Standard Time
Agent Name	3101114469 - MORSTAN GENERAL AGENCY, INC	Agent No.	3101114469

Item 1. Business Description: Department or Discount Stores

Item 2. Limits of Insurance

Coverage	Limits
Equipment Breakdown Limit	Included with Applicable Property Limit
Property Damage	Included with Applicable Property Limit
Business Income	Included with Applicable Property Limit
Perishable Goods	\$25,000
Expediting Expenses	\$25,000
Drying Out	\$10,000
Pollution Clean Up and Removal	\$25,000
Data Restoration	\$25,000
Demolition and Increased Cost of Construction	\$25,000

Deductibles	Property Deductibles
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Item 3. Location of Premises
All locations in the state of New York

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

EB-DEC (09/14)

Client Copy



Policy Number
010191453CP0100

COMMERCIAL GENERAL LIABILITY COVERAGE PART
SUPPLEMENTAL DECLARATIONS

KOOKMIN BEST INSURANCE CO., LTD. (US BRANCH)

Named Insured 705-711 FRANKLIN REALTY LLC Effective Date: August 08, 2017
12:01 A.M., Standard Time
Agent Name 3101114469 - MORSTAN GENERAL AGENCY, INC Agent No. 3101114469

Item 1. Business Description: MERCANTILE - PREMISES/OPERATIONS AND PRODUCTS/COMPLETED

Item 2. Limits of Insurance

Coverage	Limit of Liability	
Aggregate Limits of Liability	2,000,000 CSL	Products/Completed Operations Aggregate
	2,000,000 CSL	General Aggregate (other than Products/Completed Operations)
Coverage A - Bodily Injury and Property Damage Liability	1,000,000 CSL	any one occurrence subject to the Products/Completed Operations and General Aggregate Limits of Liability
Damage To Premises Rented To You	\$100,000	any one premises subject to the Coverage A occurrence and the General Aggregate Limits of Liability
Coverage B - Personal and Advertising Injury Liability	\$1,000,000	any one person or organization subject to the General Aggregate Limits of Liability
Coverage C - Medical Payments	\$5,000	any one person subject to the Coverage A occurrence and the General Aggregate Limits of Liability

Item 3. Retroactive Date

This Insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" which occurs before the Retroactive Date, if any, shown here: **None**
(Enter Date or "None" if no Retroactive Date applies)

Item 4. Form of Business and Location of Premises

Forms of Business:
Location of All Premises You Own, Rent or Occupy:
See Schedule of Locations

Item 5. Forms and Endorsements

Form(s) and Endorsement(s) made a part of this policy at time of issue:
See Schedule of Forms and Endorsements

Item 6. Premiums

Coverage Part Premium:

Other Premium:

Total Premium:

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

GL-DEC (12/01)

Client Copy